

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Western Wireless Corporation)
)
Petition For Designation as an)
Eligible Telecommunications Carrier)
in the State of Wyoming)

CC Docket No. 96-45

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FEDERAL COMMUNICATIONS COMMISSION
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**REPLY COMMENTS
OF THE
COALITION OF RURAL TELEPHONE COMPANIES**

The Coalition of Rural Telephone Companies ("Coalition")¹ respectfully submits these Reply Comments in response to the comments filed on December 17, 1999, in the proceeding captioned above.² The Coalition Opposition concluded that the WW Petition should be denied for several reasons.

First, WW has not demonstrated that it can or will satisfy all relevant ETC requirements; a future intent is not sufficient.³ The record in this proceeding remains cursory, vague, and fatally lacking in critical detail required to evaluate an ETC designation request. The supporters of WW provide no additional factual basis to review this matter.⁴ The supporters only repeat the same declarative, unsubstantiated, and imprecise statements that WW offered in its Petition.

¹ The members of the Coalition are state-organized groups of rural local exchange carriers ("LECs") in Kansas, Minnesota and Nebraska. The Coalition filed Opposition Comments in this proceeding on December 17, 1999. Unless otherwise indicated, citations herein are to comments and oppositions filed on December 17, 1999, in the proceeding captioned above.

² This proceeding is addressing a petition filed on September 29, 1999, by Western Wireless Corporation ("WW") seeking Eligible Telecommunications Carrier ("ETC") status in the State of Wyoming ("WW Petition"). See *Public Notice*, DA 99-2511, released by the Commission on November 12, 1999.

³ Coalition Opposition at 2-3.

⁴ See, e.g., Cellular Telecommunications Industry Association; Personal Communications Industry Association; and AT&T.

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Second, the public interest objectives and requirements incorporated in the universal service provisions of the Act will not be served or advanced by designating WW as an ETC, particularly with respect to the higher cost, lower density areas served by rural telephone companies.⁵ Moreover, the relevant universal service objectives would actually be threatened if WW were designated an ETC.⁶

Third, regardless of the public policy implications, the jurisdictional premise under which WW seeks Commission action remains unclear.⁷ Any Commission action based on WW's jurisdictional analysis in this instant proceeding will require reconciliation with previous, apparently contrary decisions and rules.

Fourth, as the Coalition demonstrated in its Opposition, the Commission's Universal Service policy making effort has not, to date, proposed, addressed or adopted methods by which the unfolding high-cost support mechanics could be applied in any logical or non-arbitrary manner to shared-spectrum and/or mobile wireless applications.⁸ Furthermore, the Commission's *Ninth Report and Order* presents new rules and policies that are unworkable with respect to wireless and CMRS providers, and if applied, would lead to anomalous and arbitrary results. While WW has failed to recognize the inadequacy and potential arbitrary results, at least one of its supporters now acknowledges that the rules cannot be applied to wireless applications. Interestingly, many of the same problems with the rules were also explained by the Personal Communications Industry Association ("PCIA") in a Petition for Reconsideration in CC Docket

⁵ Coalition Opposition at 5-10.

⁶ *Id.*

⁷ Coalition Opposition at 3-4; USTA at 1-5.

⁸ *Id.* at 13-17 (e.g., the quantity or location of "working loops" with respect to shared-spectrum and/or mobile wireless services).

No. 96-45 filed a few days after the comments were filed in this proceeding.⁹

Several fundamental and critical issues with respect to treatment of shared-spectrum wireless services, as well as the possibility that universal service support could be directed improperly to wireless and/or mobile services, is heightened by the fact that WW has failed to explain which “universal services” may be eligible for support and how eligible “universal services” would be distinguished from ineligible CMRS services. Accordingly, because the rules either do not address these issues or could be applied in an arbitrary manner, the danger exists that if WW were to be designated as an ETC, WW could claim support for wireless and/or mobile services in quantities that have nothing to do with levels of high-costs and for service to areas for which high-cost support is not required and is not intended to be directed.

Therefore, several of the Commission’s policies require further evaluation, proposals, and public comment to ensure reasonable neutrality of universal service policies.¹⁰ The instant proceeding in which WW has established only a cursory record cannot examine the rules mechanics and remaining issues sufficiently. Moreover, the specific treatment of fixed wireless service relative to CMRS, the local usage component required of ETCs, and the disparate

⁹ See Petition for Reconsideration and/or Clarification of the Personal Communications Industry Association, filed January 3, 2000, in CC Docket No. 96-45 (“PCIA Recon. Pet.”). PCIA makes no distinction throughout its reconsideration request as to whether its requests or proposals are for “fixed” wireless services or mobile services.

¹⁰ The PCIA Recon. Pet. also does not provide proposals that are workable or could be applied in any non-arbitrary manner. PCIA suggests that the “address for a wireless customer can be associated with a wire center, like the address of a wireline customer.” *Id.* at 4. The suggestion is not an analogous approach. A wireless customer most often uses wireless services when not located at his or her billing address. Also, billing addresses would be subject to arbitrary choice by carrier and/or customer. Moreover, “working phone numbers” (however PCIA intends for such quantity to be defined) for wireless service users does not correlate with universal service high-cost support requirements any more so than “working numbers” would for wireline carriers. The use of “working numbers” would be subject to arbitrary exploitation by wireless carriers with further perverse implications with respect to efficient use of available number resources. *Id.* at 5. See also Coalition Opposition at 16 and n. 52.


interconnection and local exchange carrier responsibilities and rights also require resolution, reevaluation or revision with respect to the issues presented by the WW Petition. The Commission and the public cannot meaningfully examine the issues presented in the instant ETC proceeding in light of the extent of directly related policy and rules that remain unresolved.

For these and other reasons outlined in the Coalition's Opposition comments, and the record before the Commission in related proceedings, the WW Petition should be rejected.

Respectfully submitted,

THE COALITION OF
RURAL TELEPHONE COMPANIES

Steven E. Watkins
Principal, Management Consulting
Kraskin, Lesse & Cosson, L.L.P.

By: 
David Cosson

Kraskin, Lesse & Cosson, L.L.P.
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
(202) 296-8890

Its Attorney

January 10, 2000

CERTIFICATE OF SERVICE

I, Quita Gould, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Reply Comments of the Coalition of Rural Telephone Companies", was served this 10th day of January, 2000, by first class, U.S. Mail, postage prepaid to the following parties:



Quita Gould

Hon. William E. Kennard, Chairman *
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Hon. Susan Ness, Commissioner *
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Hon. Harold Furchtgott-Roth *
Commissioner
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Hon. Michael K. Powell, Commissioner *
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Hon. Gloria Tristani, Commissioner *
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Kathryn Brown, Chief of Staff *
Office of Chairman William E. Kennard
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Ari Fitzgerald, Legal Advisor *
Office of Chairman William E. Kennard
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Dorothy Attwood, Legal Advisor*
Office of Chairman Kennard
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Linda Kinney, Legal Advisor *
Office of Commissioner Susan Ness
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Mark Schneider, Senior Legal Advisor*
Office of Commissioner
Harold Furchtgott-Roth
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Rebecca Beynon, Legal Advisor *
Office of Commissioner
Harold Furchtgott-Roth
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Robert Calaff, Legal Advisor*
Office of Commissioner
Harold Furchtgott-Roth
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Kyle D. Dixon, Legal Advisor *
Office of Commissioner Michael K. Powell
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Peter Tenhula, Legal Advisor *
Office of Commissioner Michael K. Powell
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Adam Krinsky, Legal Advisor *
Office of Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Sarah Whitesell, Legal Advisor *
Office of Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Thomas Sugrue, Chief *
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

James Schlichting, Deputy Chief *
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 3-C254
Washington, DC 20554

Steven Weingarten, Chief *
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 4-C224
Washington, DC 20554

Paul D'Ari, Chief *
Policy & Rules Branch
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 4-A325
Washington, DC 20554

David Krech *
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 4-A223
Washington, DC 20554

Larry Strickling, Chief *
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-C450
Washington, DC 20554

Lisa Zaina, Deputy Chief *
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-C451
Washington, DC 20554

Irene Flannery, Chief *
Accounting Policy Division/CCB
Federal Communications Commission
445 12th Street, SW, Room 5-A426
Washington, DC 20554

Charles Keller, Deputy Chief *
Accounting Policy Division/CCB
Federal Communications Commission
445 12th Street, SW, Room 5-A664
Washington, DC 20554

Katie King *
Accounting Policy Division/CCB
Federal Communications Commission
445 12th Street, SW, Room 5-B550
Washington, DC 20554

Sheryl Todd (3)
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW, Room 5-A523
Washington, DC 20554

International Transcription Services
Federal Communications Commission
1231 20th Street, NW
Washington, DC 20554

Steve Ellenbecker, Chairman
Wyoming Public Service Commission
Hansen Building
2515 Warren Avenue
Suite 300
Cheyenne, WY 82002

Steve Furtney, Deputy Chair
Wyoming Public Service Commission
Hansen Building
2515 Warren Avenue
Suite 300
Cheyenne, WY 82002

Kristin H. Lee, Commissioner
Wyoming Public Service Commission
Hansen Building
2515 Warren Avenue
Suite 300
Cheyenne, WY 82002

Michele C. Farquhar
David L. Sieradzki
Ronnie London
Hogan & Hartson, LLP
Columbia Square
555 13th Street, NW
Washington, DC 20004-1109
Counsel for Western Wireless Corporation

Gene DeJordy
Executive Director of Regulatory Affairs
Western Wireless Corporation
3650 131st Ave., SE, Suite 400
Bellevue, WA 98006

Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W.. Hunter
Julie L. Rones
United States Telecom Association
1401 H Street, NW
Suite 600
Washington, DC 20005

Lolita Smith
Michael F. Altschul
Randall S. Coleman
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, NW
Suite 800
Washington, DC 20036

Mary McDermott
Todd B. Lantor
Personal Communications Industry Association
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561

Mark C. Rosenblum
Stephen C. Garavito
AT&T Corporation
Room 1131M1
295 North Maple Avenue
Basking Ridge, NJ 07920

Douglas I. Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

Howard J. Symons
Sara F. Seidman
Christopher H. Kallaher
Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, P.C.
701 Pennsylvania Avenue, NW
Suite 900
Washington, DC 20004
Counsel for AT&T Corporation

* Via Hand Delivery